

section is in effect, the NO<sub>x</sub> Budget unit under paragraph (b)(1)(i) of this section will be treated, solely for purposes of NO<sub>x</sub> allowance allocations under § 97.42, as a unit that commenced operation on the effective date of the NO<sub>x</sub> Budget permit revision under paragraph (b)(1)(i) of this section and will be allocated NO<sub>x</sub> allowances under § 97.42. The unit's deadline under § 97.84(b) for meeting monitoring requirements in accordance with subpart H of this part shall not be changed by the change in the unit's regulatory status or by the revision of the NO<sub>x</sub> Budget permit under paragraph (b)(1)(i) of this section.

(B) Notwithstanding paragraph (b)(1)(iii)(A) of this section, if the effective date of the NO<sub>x</sub> Budget permit revision under paragraph (b)(1)(i) of this section is during a control period, the following number of NO<sub>x</sub> allowances will be allocated to the NO<sub>x</sub> Budget unit under paragraph (b)(1)(i) of this section under § 97.42 for the control period: the number of NO<sub>x</sub> allowances otherwise allocated to the NO<sub>x</sub> Budget unit under § 97.42 for the control period multiplied by the number of days in the control period starting with the effective date of the permit revision under paragraph (b)(1)(i) of this section, divided by the total number of days in the control period, and rounded to the nearest whole number of NO<sub>x</sub> allowances as appropriate.

(2)(i) When the NO<sub>x</sub> authorized account representative of a NO<sub>x</sub> Budget opt-in unit does not renew its NO<sub>x</sub> Budget opt-in permit under § 97.83(b), the Administrator will deduct from the NO<sub>x</sub> Budget opt-in unit's compliance account, or the overdraft account of the NO<sub>x</sub> Budget source where the NO<sub>x</sub> Budget opt-in unit is located, NO<sub>x</sub> allowances equal in number to and allocated for the same or a prior control period as any NO<sub>x</sub> allowances allocated to the NO<sub>x</sub> Budget opt-in unit under § 97.88 for any control period after the last control period for which the NO<sub>x</sub> Budget opt-in permit is effective. The NO<sub>x</sub> authorized account representative shall ensure that the NO<sub>x</sub> Budget opt-in unit's compliance account or the overdraft account of the NO<sub>x</sub> Budget source where the NO<sub>x</sub> Budget opt-in unit is located contains the NO<sub>x</sub> allow-

ances necessary for completion of such deduction. If the compliance account or overdraft account does not contain the necessary NO<sub>x</sub> allowances, the Administrator will deduct the required number of NO<sub>x</sub> allowances, regardless of the control period for which they were allocated, whenever NO<sub>x</sub> allowances are recorded in either account.

(ii) After the deduction under paragraph (b)(2)(i) of this section is completed, the Administrator will close the NO<sub>x</sub> Budget opt-in unit's compliance account. If any NO<sub>x</sub> allowances remain in the compliance account after completion of such deduction and any deduction under § 97.54, the Administrator will close the NO<sub>x</sub> Budget opt-in unit's compliance account and transfer any remaining allowances to a general account specified by the owners and operators of the NO<sub>x</sub> Budget opt-in unit.

[65 FR 2727, Jan. 18, 2000, as amended at 69 FR 21648, Apr. 21, 2004]

#### **§ 97.88 NO<sub>x</sub> allowance allocations to opt-in units.**

(a) *NO<sub>x</sub> allotment allocation.* (1) By April 1 immediately before the first control period for which the NO<sub>x</sub> Budget opt-in permit is effective, the Administrator will determine by order the NO<sub>x</sub> allowance allocations for the NO<sub>x</sub> Budget opt-in unit for the control period in accordance with paragraph (b) of this section.

(2) By no later than April 1, after the first control period for which the NO<sub>x</sub> Budget opt-in permit is in effect, and April 1 of each year thereafter, the Administrator will determine by order the NO<sub>x</sub> allowance allocations for the NO<sub>x</sub> Budget opt-in unit for the next control period, in accordance with paragraph (b) of this section.

(3) The Administrator will make available to the public each determination of NO<sub>x</sub> allowance allocations under paragraph (a)(1) or (2) of this section and will provide an opportunity for submission of objections to the determination. Objections shall be limited to addressing whether the determination is in accordance with paragraph (b) of this section. Based on any such objections, the Administrator will adjust each determination to the extent necessary to ensure that it is in

accordance with paragraph (b) of this section.

(b) For each control period for which the NO<sub>x</sub> Budget opt-in unit has an approved NO<sub>x</sub> Budget opt-in permit, the NO<sub>x</sub> Budget opt-in unit will be allocated NO<sub>x</sub> allowances in accordance with the following procedures:

(1) The heat input (in mmBtu) used for calculating NO<sub>x</sub> allowance allocations will be the lesser of:

(i) The unit's baseline heat input determined pursuant to § 97.84(c); or

(ii) The unit's heat input, as determined in accordance with subpart H of this part, for the control period in the year prior to the year of the control period for which the NO<sub>x</sub> allocations are being calculated.

(2) The Administrator will allocate NO<sub>x</sub> allowances to the unit in an amount equaling the heat input determined under paragraph (b)(1) of this section multiplied by the lesser of the unit's baseline NO<sub>x</sub> emissions rate determined under § 97.84(c) or the most stringent State or federal NO<sub>x</sub> emissions limitation applicable to the unit during the control period, divided by 2,000 lb/ton, and rounded to the nearest whole number of NO<sub>x</sub> allowances as appropriate.

### Subpart J—Appeal Procedures

#### § 97.90 Appeal procedures.

The appeal procedures for the NO<sub>x</sub> Budget Trading Program are set forth in part 78 of this chapter.

[69 FR 21648, Apr. 21, 2004]

### Subpart AA—CAIR NO<sub>x</sub> Annual Trading Program General Provisions

#### § 97.101 Purpose.

This subpart and subparts BB through II set forth the general provisions and the designated representative, permitting, allowance, monitoring, and opt-in provisions for the Federal Clean Air Interstate Rule (CAIR) NO<sub>x</sub> Annual Trading Program, under section 110 of the Clean Air Act and § 52.35 of this chapter, as a means of mitigating interstate transport of fine particulates and nitrogen oxides.

#### § 97.102 Definitions.

The terms used in this subpart and subparts BB through II shall have the meanings set forth in this section as follows:

*Account number* means the identification number given by the Administrator to each CAIR NO<sub>x</sub> Allowance Tracking System account.

*Acid Rain emissions limitation* means a limitation on emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program.

*Acid Rain Program* means a multi-state sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the Administrator under title IV of the CAA and parts 72 through 78 of this chapter.

*Actual weighted average NO<sub>x</sub> emission rate* means, for a NO<sub>x</sub> averaging plan under § 76.11 of this chapter and for a year:

(1) The sum of the products of the actual annual average NO<sub>x</sub> emission rate and actual annual heat input (as determined in accordance with part 75 of this chapter) for all units in the NO<sub>x</sub> averaging plan for the year; divided by

(2) The sum of the actual annual heat input (as determined in accordance with part 75 of this chapter) for all units in the NO<sub>x</sub> averaging plan for the year.

*Administrator* means the Administrator of the United States Environmental Protection Agency or the Administrator's duly authorized representative.

*Allocate or allocation* means, with regard to CAIR NO<sub>x</sub> allowances, the determination by a permitting authority or the Administrator of the amount of such CAIR NO<sub>x</sub> allowances to be initially credited to a CAIR NO<sub>x</sub> unit, a new unit set-aside, or other entity.

*Allowance transfer deadline* means, for a control period, midnight of March 1 (if it is a business day), or midnight of the first business day thereafter (if March 1 is not a business day), immediately following the control period and is the deadline by which a CAIR NO<sub>x</sub> allowance transfer must be submitted for recordation in a CAIR NO<sub>x</sub> source's compliance account in order to be used to meet the source's CAIR NO<sub>x</sub> emissions limitation for such control period in accordance with § 97.154.